

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**May 6, 2009**

**DIVISION TWO**

B211070      Manhattan Loft, LLC              (Certified for Publication)  
                         v.  
                         Mercury Liquors, Inc., et al.

The order granting respondents' anti-SLAPP motion is reversed. The cause is remanded to the trial court with directions to enter a new and different order denying the motion. Appellant is entitled to costs on appeal.

Ashmann-Gerst, J.

We concur:    Doi Todd, Acting P.J.  
                         Chavez, J.

B207672      Xochilt Casiano                      (Not for Publication)  
                         v.  
                         Wet Seal Retail, Inc.  
                         Sally Chaaban

The judgment is reversed and remanded. The trial court must conduct a new hearing for final approval of the settlement to independently evaluate the strengths and weaknesses of the settlement pursuant to Kullar, and to evaluate the fairness of releasing meal and rest period claims arising prior to July 2005 even though the notice indicated that those claims were not released. Chaaban shall recover her costs on appeal.

Ashmann-Gerst, J.

We concur:    Boren, P.J.  
                         Doi Todd, J.

## DIVISION TWO (continued)

B201036      Sadegh      (Not for Publication)  
v.  
Nikjeh

The denial of Zahra's oral motion for need based fees and costs is reversed and remanded with directions to the family court to hear the merits in conjunction with a hearing on her written motion for need based fees and costs. The order denying a retroactive temporary child support order is also reversed. Upon remand, the family court shall consider retroactivity based on the material facts. In all other respects, the family court's orders are affirmed. The parties shall bear their costs on appeal.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B208368      People                          (Not for Publication)  
v.  
**Smith**

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B206339 People (Not for Publication)  
v.  
Diaz

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                  Doi Todd, J.

May 6, 2009 (Continued)

## DIVISION TWO (continued)

B206472 People (Not for Publication)  
v.  
Pacheco

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                  Doi Todd, J.

DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Zaida Heraldez, Deputy Clerk.

Each of the following:

B207781 Galina Gromova v. Leonid Gromov  
B208767 People v. Omar Montano  
B207056 People v. S.L.  
B207294 People v. James Kennedy  
B207129 People v. Joseph Anthony Williams  
B202960 People v. Kenneth Peoples et al  
B205293 People v Robert Niblett  
B205179 People v. Daniel Crutchfield et al  
B208673 People v. M.H.  
B209790 People v. Raymond Kelsch  
B206172 People v. Mark A. Brown

Argument waived, cause submitted.

DIVISION THREE (continued)

B203507      Federico Castelan Sayre  
                 v.  
                 Joan Keller Selznick

Merits:  
Argued by Dana Lee Douglas for appellants and by Dana M. Cole for respondent. Cause submitted.

B209790      People  
                 v.  
                 Raymond Kelsch

Merits:  
Argued by Kathleen Rebecca Frey, Deputy Attorney General for appellant and no appearance for respondent. Cause submitted.

B207106      People  
                 v.  
                 Francisco Acosta

Merits:  
Argued by Tracy A. Rogers for appellant and by Michael A. Katz, Deputy Attorney General for respondent. Cause submitted.

B205179      People  
                 v.  
                 Daniel Crutchfield, et al

Merits:  
Argued by Kathleen M. Redmond for appellant Williams and by Larua J. Hartquist, Deputy Attorney General for respondent. No appearance for appellant Crutchfield. Cause submitted.

### DIVISION THREE (continued)

B205542      Alberto Gutierrez  
v.  
Jose Luis Rodriguez et al

Merits:  
Argued by Humberto Guizar for appellant and by Michael Strumwasser for respondents. Submission deferred pending filing of supplemental letter briefs.

Court adjourned.

B201488 People  
v.  
Gonzalo Ibarra Pellegrin

Filed order denying petition for rehearing.

## DIVISION FOUR

B209889 People (Not for Publication)  
v.  
Diaz

The judgment is affirmed.

Manella, J.

We concur: Epstein, P.J.  
Willhite, J.

## DIVISION FOUR (continued)

[illegible]

The judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.  
Manella, J.

B206890      Murray      (Not for Publication)  
v.  
Murray

The order of February 5, 2008, is affirmed in part as follows:

1. Diana is entitled to reimbursement of \$7,400 for expenditures she made from her separate property for the down payment and improvements on the community property home.
2. Further, as of October 1, 2006, Clarence owed to Diana spousal support arrears in the amount of \$5,074.96, plus interest.
3. Finally, Diana's request for attorney fees on appeal, filed October 13, 2006, was denied by the judgment of May 9, 2006, and her renewal of that request in her October 2007 order to show cause is denied.

The order of February 5, 2008, is reversed in part as follows:

1. The portions amending and vacating the minute order dated November 13, 2006, nunc pro tunc, and vacating, nunc pro tunc, the order after hearing entered December 28, 2006, are reversed. Those orders are final and fully operative, including (a) the award to Diana of \$4,811.38 in pension arrears (which sum includes interest) for the period from April 1, 2004, to September 1, 2006; (b) the award to Diana of \$14,250 for Clarence's failure to remove Diana's name from all credit cards; and (c) the order modifying Clarence's spousal support obligation to Diana to \$750 per month commencing October 1, 2006. Accordingly, the matter is remanded to the trial court for computation of spousal support arrearages, including interest at the legal rate.

DIVISION FOUR (continued)

B206890      Murray v Murray (continued)

2.      The portion finding that Clarence had overpaid spousal support arrearages by at least \$1,449.90 is reversed.
3.      The portion in which the court declined to order Clarence to pay to Diana \$4,409.58 in vacation pay, as required by the judgment of dissolution of May 2006 (affirmed by this court in Murray II) is reversed. Clarence shall be ordered to pay that sum.
4.      The finding that Diana's attorney breached the fiduciary duty she owed to Clarence and violated court orders, and the resulting order that Diana pay to Clarence the sum of \$4,000 as attorneys fees and sanctions, are reversed.
5.      The ruling that \$20,419.48 be disbursed to Clarence from the proceeds of the sale of the community property residence held in Diana's attorney's trust account, and that the balance of \$2,453.54 be disbursed to Diana, is reversed.
6.      The trial court's denial of Diana's request to be paid \$3,012.95 for costs on appeal awarded in January 2006 is reversed. Clarence is ordered to pay Diana that amount.
7.      The trial court's denial of Diana's request for attorney fees of \$1,500, plus costs for bringing the September 2007 order to show cause, is reversed. On remand, the court shall reconsider that request in light of the fact she has largely prevailed on this appeal.
8.      The matter is remanded to the trial court to determine the amount of the additional tax assessment the parties incurred, in addition to the amount withheld for taxes by the plan administrator, based upon the distribution from Clarence's Lockheed 401k account. The apportionment of that tax liability between the parties shall then be determined in accordance with the method applied by the trial court in its order of February 5, 2008, as required by the judgment of dissolution of May 9, 2006 (affirmed by this court in Murray II). Diana shall bear her own costs on appeal.

Willhite, J.

We concur:    Epstein, P.J.  
                      Manella, J.

DIVISION FIVE

B212131      People                                  (Not for Publication)  
v.  
Trayesha Foster

The judgment is affirmed.

Kriegler, J.

We concur:   Turner, P.J.  
                      Armstrong, J.

B210070      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
T.M.  
A.S.

The judgment is affirmed.

Kriegler, J.

We concur:   Turner, P.J.  
                      Armstrong, J.

B213704      People                                  (Not for Publication)  
v.  
Nabil Atalla

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The appeal is dismissed.

Turner, P.J.

We concur: Armstrong, J.  
Kriegler, J.

## DIVISION FIVE (continued)

B208493 People (Not for Publication)  
v.  
C.S.

The judgment is affirmed.

Turner, P.J.

We concur: Mosk, J.  
Kriegler, J.

B213193      Los Angeles County, D.C.F.S.      (Not for Publication)  
v.  
S.H.  
M.K.

The judgment is affirmed.

Turner, P.J.

We concur: Mosk, J.  
Kriegler, J.

B206379 People (Not for Publication)  
v.  
Romualdo Villanueva

The judgment is modified to impose three \$20 Penal Code section 1465.8, subdivisiion (a) court security fees. The abstract of judgment is to be corrected to delete any reference to the \$300 Penal Code section 290.3, subdivision (a) fine. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Mosk, J.  
Kriegler, J.

DIVISION FIVE (continued)

B214128      A.S.      (Not for Publication)

V.

Superior Court, Los Angeles County  
(DCFS, r.p.i.)

The petition is denied. This opinion shall become final immediately upon filing. (Cal. Rules of Court, rule 8.264(b)(3).)

Kriegler, J.

We concur:   Turner, P.J.  
                      Armstrong, J.

DIVISION SIX

B207272 St. Francis Friends & Neighbors (Not for Publication)

V.

City of Santa Barbara  
Santa Barbara Cottage Hospital

The judgment is affirmed. Costs are awarded to respondents.

Coffee, J.

We concur: Gilbert, P.J.  
Perren, J.

## DIVISION SEVEN

B206686 Martin, et al.,

V.

Bridgeport Community Association, Inc.,

Filed order certifying opinion for publication.